

Effective 5/13/2014

Part 3
Procedures for Certification and Revocation of Certification

19-12-301 Application for certification of a pollution control facility.

- (1) The following may apply to the director for certification of a pollution control facility erected, constructed, installed, or acquired, or to be erected, constructed, installed, or acquired:
 - (a) an owner, including a contract purchaser, of a trade or business that includes a pollution control facility;
 - (b) a person who, as a lessee or in accordance with an agreement, conducts a trade or business that includes a pollution control facility; or
 - (c) a person who operates a pollution control facility in accordance with an agreement with a person described in Subsection (1)(a) or (b).
- (2) A person may file an application under this section after:
 - (a) the person enters into a firm construction contract with another person; or
 - (b) construction has commenced.
- (3) An application for certification under this section shall:
 - (a) be in a form the director prescribes; and
 - (b) contain:
 - (i) a description of the pollution control facility;
 - (ii) for a purchase or lease of property, a part, a product, or a service for which a person seeks to claim a sales and use tax exemption under Section 19-12-201, a description of the property, part, product, or service;
 - (iii) the existing or proposed operation procedure for the pollution control facility; and
 - (iv) a statement of the purpose served or to be served by the pollution control facility.
- (4) The director may require an application to contain additional information the director finds necessary to determine whether to grant certification under Section 19-12-303.
- (5) This section does not apply to the certification of freestanding pollution control property.

Enacted by Chapter 24, 2014 General Session

19-12-302 Application for certification of freestanding pollution control property.

- (1) The following may apply to the director for certification of freestanding pollution control property:
 - (a) an owner, including a contract purchaser, of the freestanding pollution control property;
 - (b) a person who leases the freestanding pollution control property; or
 - (c) a person who operates the freestanding pollution control property under an agreement with a person described in Subsection (1)(a) or (b).
- (2) An application for certification under this section shall:
 - (a) be in a form the director prescribes; and
 - (b) contain:
 - (i) a description of the freestanding pollution control property;
 - (ii) for a purchase or lease of property, a part, a product, or a service for which a person seeks to claim a sales and use tax exemption under Section 19-12-201, a description of the property, part, product, or service;
 - (iii) the existing or proposed operational procedure for the freestanding pollution control property; and

- (iv) a statement of the purpose served or to be served by the freestanding pollution control property.
- (3) The director may require an application to contain additional information the director finds necessary to determine whether to grant certification under Section 19-12-303.
- (4) This section does not apply to the certification of a pollution control facility.

Enacted by Chapter 24, 2014 General Session

19-12-303 Certification of pollution control facility or freestanding pollution control property.

- (1) The director shall issue a written certification to a person no later than 120 days after the date the person files an application under Section 19-12-301 or 19-12-302 if the director determines that:
 - (a) for a pollution control facility:
 - (i) the application meets the requirements of Subsection 19-12-301(3);
 - (ii) the facility that is the subject of the application is a pollution control facility;
 - (iii) the person who files the application is a person described in Subsection 19-12-301(1); and
 - (iv) the purchases or leases for which the person seeks to claim a sales and use tax exemption are exempt under Section 19-12-201; or
 - (b) for freestanding pollution control property:
 - (i) the application meets the requirements of Subsection 19-12-302(2);
 - (ii) the property that is the subject of the application is freestanding pollution control property;
 - (iii) the person who files the application is a person described in Subsection 19-12-302(1); and
 - (iv) the purchases or leases for which the person seeks to claim a sales and use tax exemption are exempt under Section 19-12-201.
- (2) If the director denies certification under this section to a person who files an application, the director shall provide a written statement of the reason for the denial to the person no later than 120 days after the date the person files the application.
- (3) The director may not require the certification of:
 - (a) a replacement of freestanding pollution control property; or
 - (b) property, a part, a product, or a service described in Subsections 19-12-201(1)(b) through (e) used or performed in a repair or replacement related to:
 - (i) a pollution control facility; or
 - (ii) freestanding pollution control property.
- (4) The director may issue one certification under this section of two or more:
 - (a) pollution control facilities that constitute an operational unit; or
 - (b) freestanding pollution control properties that constitute an operational unit.
- (5) If the director does not issue or deny a certification under this section within 120 days after the date a person files an application, the director shall issue a certification to the person at the person's request.

Enacted by Chapter 24, 2014 General Session

19-12-304 Revocation of certification.

- (1) The director may revoke a certification issued under Section 19-12-303 if the director determines that:
 - (a) the certification was obtained by fraud or gross misrepresentation; or
 - (b)

- (i) for a pollution control facility, a requirement of Subsection 19-12-303(1)(a) is not met; or
 - (ii) for freestanding pollution control property, a requirement of Subsection 19-12-303(1)(b) is not met.
- (2) A shutdown of a pollution control facility or freestanding pollution control property due to force majeure, including obsolescence, is not cause to revoke the certification of the pollution control facility or freestanding pollution control property.
- (3) The director shall provide notice of the director's determination to revoke a certification by issuing a notice of agency action.
- (4) The holder of a certification may obtain judicial review of the decision of the director to revoke the certification.
- (5) A revocation under this section is final and conclusive unless the holder of the certification obtains judicial review in accordance with Subsection (4).
- (6) If a revocation is affirmed on appeal, the revocation is final on the date the holder receives the notice described in Subsection (3).
- (7) If a revocation becomes final under this section, the director shall notify the State Tax Commission of the revocation.
- (8) If the director revokes a certification under this section:
 - (a) the prior sales and use tax exemptions the holder of the certification claimed under Section 19-12-201 are forfeited; and
 - (b) the State Tax Commission shall collect taxes not paid by the holder of the certification:
 - (i) as a result of claiming the sales and use tax exemptions under Subsection (8)(a); and
 - (ii) to the extent permitted by Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

Enacted by Chapter 24, 2014 General Session

19-12-305 Rulemaking authority.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to air pollution, the Air Quality Board may make rules establishing procedures for:
 - (a) processing and evaluating an application for certification; and
 - (b) the issuance and revocation of a certification.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to water pollution, the Water Quality Board may make rules establishing procedures for:
 - (a) processing and evaluating an application for certification; and
 - (b) the issuance or revocation of a certification.

Enacted by Chapter 24, 2014 General Session